

STATE OF MICHIGAN
COURT OF APPEALS

LEZE VULJAJ,

Plaintiff-Appellee,

v

DJERDJO VULJAJ,

Defendant-Appellant.

UNPUBLISHED

April 23, 2002

No. 229278

Macomb Circuit Court

LC No. 98-006811-DM

Before: Gage, P.J., and Griffin and Buth*, JJ.

MEMORANDUM.

Defendant appeals as of right from the parties' judgment of divorce, which incorporated the terms of an arbitrator's valuation. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant raises two arguments on appeal: (1) that the divorce judgment is void for lack of jurisdiction because plaintiff did not meet the ten-day residency requirement set by MCL 552.9(1); and (2) that the judgment must be set aside because the arbitrator exceeded the scope of his authority by addressing issues outside the scope of the parties' stipulated order referring the case to binding arbitration. We find no reason to reverse.

A party's failure to comply with MCL 552.9(1) raises an issue of subject matter jurisdiction which can be raised at any time. *Smith v Smith*, 218 Mich App 727, 729-730; 555 NW2d 271 (1996). However, here defendant presented no evidence contradicting plaintiff's assertion and testimony that she lived in Macomb County for at least ten days before filing her divorce complaint. Furthermore, defendant's answer to plaintiff's complaint admitted that she lived in Macomb County for at least ten days before filing. The trial court did not clearly err by finding that plaintiff had complied with the ten-day residency requirement.

Defendant did not move to vacate or modify the arbitration valuation within the twenty-one-day period and as a result he lost his right to challenge the arbitrator's decision. *DAIIE v*

* Circuit judge, sitting on the Court of Appeals by assignment.

Gavin, 416 Mich 407, 423 n 5; 331 NW2d 418 (1982); *Nickerson v Citizens Mut Ins Co*, 393 Mich 324, 327-328; 224 NW2d 896 (1975).

Affirmed.

/s/ Hilda R. Gage
/s/ Richard Allen Griffin
/s/ George S. Buth